

Sale of the Asarco Smelter Property to Point Ruston

Objectives

- To explain the proposed Consent Decree and the Statement of Work
- To give details about how to make comments during the comment period
- To answer your questions

Recent History

February 2003

- Consent decree United States v. Asarco Incorporated and Southern Peru Holdings. Among other provisions, the Arizona consent decree provided for environmental trust

August 9, 2005

- Asarco filed for bankruptcy protection under chapter 11

December 8, 2005

- Asarco entered into an agreement with MC Construction Consultants, Inc. ("MC Construction"), to sell approximately 97 acres - includes smelter and offshore sediments

Requirements of Sale

- MC Construction by law assumes liability for smelter cleanup – liability assigned to Point Ruston, LLC
- EPA must reach agreement with Point Ruston prior to approval – agreement embodied in this consent decree
- In order for property to be developed as residential, EPA requiring additional work

Cleanup Activities
and Other Requirements
Described in the Scope of Work
and Consent Decree

Demolish Existing Structures

- Completed by Asarco

Onsite Containment Facility

- Completed by Asarco
- O&M by Point Ruston
- Post site development issues

Grade, Terrace, and Cap the Site

- Stack Hill remediated by Asarco
- Point Ruston must cap the smelter site and the slag peninsula
- Roads and building foundations may be used as site cap
- Temporary cap required prior to first occupancy

SHORELINE STABILIZATION AND PROTECTION

- Asarco completed shoreline armoring on the southern end of the smelter site and on the slag peninsula
- Point Ruston responsible for armoring remaining smelter shoreline (middle shoreline)
- Decision on repair of habitat basin has not been made

Disposal of Additional Ruston/North Tacoma Residential Soils

- Residential soils will be placed as sub-grade at the smelter site as long as development allows
- Yard cleanup is not part of this settlement
- Yard cleanup will continue with Trust Fund Money

SEDIMENT CAPPING AND YACHT BASIN DREDGING

- These activities are part of the remedy decision for sediment
- Asarco completed the design prior to bankruptcy

Point Ruston Responsible for the following:

- Capping offshore sediments with 3 foot sand/silt cap
- Tying cap to shoreline armoring
- Excavation of shallow sediments in the Yacht Basin
- Post construction monitoring

Point Ruston is not required to do the following:

- Excavation of deep sediments in the Yacht Basin
- Excavation of offshore contaminated area near ferry
- Maintenance of sediment cap
- Armoring tip of the slag peninsula

SEQUENCING OF DEVELOPMENT AND OCCUPANCY

Allows for development of the property before the completion of smelter site capping

- Development constructed in phases – Lien lifted on each phase with provision for additional financial assurance
- Ongoing construction activities must not create a health hazard for future occupants
- Protective measures will include buffer zones between existing units and construction
- Temporary cap composed of a marker and clean soil covered with vegetation required over the entire smelter site prior to first occupancy

Notification Requirements for Site Owners

- Point Ruston will develop public educational materials and markers or signs for future users and occupiers of the property
- Describe the remediation and explain what the users and occupiers should and should not do to maintain the effectiveness of the cleanup
- Information must include operation and maintenance requirements and future funding needs

Operation and Maintenance

Smelter Property

- Point Ruston responsible
- Requirement may be passed to future property owners, including condo association

Slag Peninsula

- Point Ruston – for soil cap only
- Any additional designs must include provision for maintenance

Sediments

- To be conducted by EPA and other responsible parties

Remediation Schedule

Nearshore/Offshore Sediment Sand/Silt Cap

- One year from the effective date of this decree

Cap Slag Peninsula

- Prior to EPA certification of the first phase of development (October 30, 2008)

Construction of temporary site cap

- Prior to EPA certification of the first phase of development (October 30, 2008)

Excavation of shallow sediments in Yacht Basin

- Prior to EPA certification of the second phase of development (No later than November 15, 2009)

Site Cap 50% complete

- Four years from the effective date of this decree

Complete Site Cap

- Seven years from the effective date of this decree

Complete Sediment Cap

- Seven years from the effective date of this decree

Financial Assurance

- Personal guarantees
- United States has a first priority lien on the property. Stack Hill need not be a part of the Purchased Property subject to the Lien - \$28 million
- Lien will be removed in phases as development commences
- Point Ruston must establish financial security in the amount of the approved cost estimate for each phase

Comments

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Reference for body of letter
United States v. Asarco, Inc.
Civil Action No. C91-5528B
D.J. Ref. # 90-11-2-698A